IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

CRP.No. 2499 of 1996(E)

OS.235/1995 of MUNSIFF COURT, PARAVUR
.....

REVN. PETITIONERS/(PLAINTIFF IN I.A/ plaintiff **):**
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1. ST. MARY'S CHURCH, ALANGAD,
REPRESENTED BY ITS
TRUSTEE, ANTONY, S/O DEVASSY,
PANACKAL HOUSE,
ALANGAD KARA, ALANGAD VILLAGE.

2. JOSEPH, S/O VARKEY,
KOOTTALA HOUSE,
ALANGAD KARA, ALANGAD VILLAGE.

BY ADV. SRI. KURIAN ANTONY EDASSY.

RESPONDENTS/RESPONDENTS IN I.A./DEFENDANT:

SANKARA PILLAI,
NARAYANAN NAIR,
MANNAYATH , MUNIYAPILLY,
HOUSE, KODUVAZHANGA,
ALANGAD VILLAGE.

BY ADV. SRI.K.N.NARAYANA PILLAI
SRI.B.JAYASANKAR
SRI.V.DEVAN
SRI.VPK.PANICKER
SRI.DINESH R.SHENOY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007, ALONG WITH A.S.810/97, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 2499 OF 1996

AND

A.S. 810 OF 1997

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Dated this the 14th day of March, 2007.

O R D E R

The C.R.P. is preferred against the order of the Munsiff Court, Paravoor declining to review the order passed by him in rejecting the plaint in O.S.235/95 for non-payment of Court fee. It is seen from the records and the bundle available here that the present revision petitioner has challenged the very rejection of the plaint in the appeal. Since the appeal is dismissed and there is only one order which remains now to the effect that the plaint stand rejected on account of the non-payment of the Court fee and as it is an appealable one under the provisions of law it is just and proper that the said appeal is considered on merits.

2. This Court in the decision reported in **Abdulkhader v. Abdul Rahiman (1988 (1) KLT 680)** has held that an appeal is maintainable when a plaint is rejected for non-payment of Court fee. Therefore, the C.R.P is dismissed and the appeal, A.S.810/97 is sent back to the Additional District Court, North Paravoor to

consider the same on merits and dispose it in accordance with law. In the interest of justice and on account of the long passag of time the learned Additional District Judge is directed to issue notice to the parties fixing the date of appearance so that the matter can be disposed of on hearing the same.

The Registry is directed to send back A.S.810/97 to the District Court, Paravoor.

The C.R.P. and A.S. 810/97 are disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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M.N. KRISHNAN, J.

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C.R.P. NO. 2499 OF 1996 &
A.S. 810 OF 1997

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J U D G M E N T

14th March, 2007.